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Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo

Addendum

Mission to Bangladesh (20–29 May 2013)*

Summary

This report contains the findings of the Special Rapporteur on violence against women, its causes and consequences, following her visit to Bangladesh from 20 to 29 May 2013. It examines the situation of violence against women in the country, taking into account its causes and consequences, and implications for the effective exercise and enjoyment of human rights by women. It also discusses the State's responses, through the lens of the principle of due diligence, to prevent such violence, protect and provide remedies to women who have been subjected to violence, and prosecute and punish the perpetrators.

* The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission only.

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Annex

[*English only*]

Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Bangladesh (20–29 May 2013)

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I. Introduction

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted an official visit to Bangladesh from 20 to 29 May 2013. The objective of this visit was to examine the situation of violence against women in the country, including violence that is perpetrated within the family, in the community, in institutional settings and in the transnational arena.

2. In Dhaka, the Special Rapporteur met with the Ministers of Information and Law, Justice and Parliamentary Affairs and held consultations with high-ranking officials of the Ministries of Chittagong Hill Tracts Affairs, Education, Health and Family Welfare, Home Affairs and Women and Children's Affairs. She also met with the Chairman of the National Human Rights Commission, the Speaker of Parliament, the Chairman of the Bangladesh Law Commission and members of the Parliamentary Standing Committee of the Ministry of Women and Children's Affairs. She visited the Dhaka Medical Hospital, which houses the One-Stop Crisis Centre and the only burn unit in the country, a Government-run shelter, the women's ward in the Dhaka Central Jail and a Special Tribunal on Violence against Women and Children.

3. During her visits to Chittagong, Rangamati, Khulna and Jessore, the Special Rapporteur met with local authorities, including the District Commissioner of Jessore and the Deputy Commissioner of the Chittagong Hill Tracts, as well as police authorities. She met with representatives of civil society, including women's organizations, and representatives of United Nations Agencies and heard testimonies from a number of women in Jessore at a shelter run by a non-governmental organization (NGO).

4. The Special Rapporteur wishes to express her appreciation to all her interlocutors, including State authorities, civil society and United Nations representatives. Most importantly, she wishes to acknowledge the individual women who shared their personal experiences of violence and survival with her. The Special Rapporteur looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of her recommendations.

II. Manifestations of violence against women

5. Inequality and power imbalances between men and women are among the root causes of violence against women in the country. This is underpinned by the persistence of patriarchal attitudes towards women, as well as stereotypical views regarding their roles and responsibilities. More than one third of men and women in Bangladesh reportedly believe that wifebeating is justified in specific circumstances.[1] In addition, the misinterpretation of religion is also often used to discriminate and/or justify acts of violence against women.[2]

6. Many women in Bangladesh face multiple and intersecting forms of discrimination, including women with disabilities, indigenous and minority women, and migrant workers. Regrettably, comprehensive disaggregated data on all forms of violence against women is

[1] National Institute of Population Research and Training, *Bangladesh Demographic and Health Survey 2007* (Dhaka, 2009).

[2] See Citizens' Initiatives on CEDAW-Bangladesh, *Combined Sixth and Seventh Alternative Report to the UN CEDAW Committee* (Dhaka, 2010), pp. 22 and 50.

still largely unavailable in Bangladesh,[3] despite widespread acknowledgement that violence against women is of serious concern across the country.

A. Violence against women in the family

7. Domestic violence in all its manifestations is the most pervasive form of violence against women, with an estimated 60 per cent of married women reported having ever experienced violence at the hands of a spouse and/or in-laws.[4] As part of the Demographic and Health Survey[5] that was conducted in 2007, women were asked if they had experienced one of the following forms of physical or sexual violence by their husbands: being pushed, shaken or have something thrown at them; being slapped, having their arms twisted or their hair pulled; being punched with a fist or an object; being kicked, dragged or beaten up; being choked or burned; being threatened with a gun or a knife; or being physically forced to have sexual intercourse. Overall, 24 per cent of respondents reported having experienced some of these forms of violence in the 12 months prior to the survey, with 19 per cent reporting violence of a physical nature and 10 per cent reporting sexual violence.[6]

8. Dowry-related violence and killings reportedly remain prevalent across Bangladesh. During the first eight months of 2013, civil society organizations reported 327 cases of dowry-related violence suffered by women and girls. Of this total, 208 included physical abuse, 110 were murder cases, and in 9 cases the victims committed suicide. These cases do not include instances in which women's children or other relatives were the victims of such dowry-related violence.[7] Dowry demands are usually settled at the time of marriage; however, some men and their families continue to make dowry demands throughout the marriage. Women who are unable to satisfy those demands suffer threats of abandonment, beatings, cigarette burns, deprivation of food and medicine, acid attacks and, in some cases, death. The Special Rapporteur was also informed that a majority of the cases on violence against women that are brought to court deal with dowry-related violence.

9. The Special Rapporteur also received information indicating a link between women's greater access to independent sources of finance, such as paid employment or microcredit, and violence against women. Despite the overall benefits of women's access to these financial resources, it has been argued that microcredit has also worked against women's solidarity and contributed heavily to the "inflation" of dowry. As money has become more easily available to brides' families, women are increasingly sent home by their husbands or in-laws to persuade parents to borrow money, either for investment or for consumption. While, in theory, microfinance institutions would not lend money for the purposes of dowry payment, it is reported that in practice most village families do depend on microcredit to meet dowry demands.[8]

10. Despite being outlawed through the adoption of the Child Marriage Restraint Act of 1929, early marriage remains a major problem. According to the United Nations Children's Fund (UNICEF), 66 per cent of Bangladeshi girls are married before the age of 18 and

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[3] CEDAW/C/BGD/CO/7.

[4] See International Centre for Diarrhoeal Disease Research, Bangladesh, *From Evidence to Policy: Addressing Gender-Based Violence against Women and Girls in Bangladesh* (Dhaka, 2013).

[5] *Ibid.*, p. 22.

[6] *Ibid.*, pp. 29 and 33.

[7] Statistics provided by Odhikar, available from http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2013/07/Statistics_Dowry_2001-2013.pdf.

[8] Santi Rozario, "The dark side of micro-credit", *Open Democracy 50:50*, 10 December 2007.

approximately one third of women aged 20 to 24 were married by the age of 15.[9] The Special Rapporteur was informed that in rural areas, some parents feel compelled to marry off their girl children as a "protective measure" against rape, and they resort to obtaining fake birth certificates to escape penalties for violating the law.

B. Violence against women in the community

11. The prevalence of acid attacks remains problematic in the country, and these attacks occur within both the family and the community spheres. Civil society organizations reported 31 cases of acid violence in Bangladesh between January and August 2013. Of this total, 22 attacks were against adult women and 4 against girls. Likewise, in 2012, women and girls were the main victims of acid violence, with 58 women and 20 girls being targeted out of a total of 105 cases.[10] Acid is generally thrown on the face or sexual organs of female victims when demands for sex or marriage proposals are refused. The ultimate aim is to damage the victim's appearance in order to destroy her marriage prospects.

12. Rape is currently the second most commonly acknowledged form of violence against women and girls in Bangladesh, yet victims seldom seek legal redress. The Special Rapporteur received reports referring to 661 cases of rape during the first eight months of 2013, 281 of which involved adult women victims and 367 cases concerning child victims, including girls. Of these, 188 involved gang rape, 49 resulted in the murder of the victim, and in 5 cases, the victims committed suicide following the rape.[11]

13. Rape was raised as a major source of concern among women with whom the Special Rapporteur spoke. In some cases, rape is also used as a weapon to weaken or harm rival communities or groups. The Special Rapporteur heard testimonies of ongoing violence and rape of indigenous women by Bengali settlers in the Chittagong Hill Tracts.

14. Different forms of sexual harassment prevail in the country. According to interviewees, girls are regularly abused or harassed in school or on their way to school. Sexual harassment is also commonplace in various working environments and is sometimes justified as being "part of the culture", by both State and non-State actors.

15. Many women seek redress through the traditional justice system, also known as the *salish* system. This may result in double victimization for them, as often they obtain little or no remedy for violations. In addition, they may be subjected to beating, whipping and stoning following *fatwa* rulings that are commonly used to subordinate women by punishing behaviour that is deemed inappropriate or immoral. Such punishments have reportedly led many women to commit suicide. According to one NGO, of 21 cases they documented in 2013 of violence against women instigated by *salish* or *fatwa*, three cases resulted in suicide. These *fatwa* rulings included punishments such as lashes, "social boycotting", and forced marriage/divorce.[12] The Special Rapporteur was informed that the High Court Division has repeatedly ordered a stop to illegal punishments such as whipping, lashing and public humiliations, holding that these types of punishments are cruel,

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[9] See UNICEF, *The State of the World's Children 2013: Children with Disabilities*, United Nations publication (Sales No. E.13.XX.1).

[10] Statistics provided by Odhikar, available from http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2013/07/Statistics_Acid_2003-2013.pdf

[11] Statistics provided by Odhikar, available from http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2013/07/Statistics_Rape_2001-2013.pdf

[12] http://www.askbd.org/ask/2014/01/11/violence-instigated-fatwa-salish-january-31-december-2013/

inhumane and degrading.[13] The Court also held that *fatwas* are not binding and cannot be enforced. However, these punishments still persist and many women have been driven to commit suicide after being subjected to *fatwa* punishments.[14]

16. The Special Rapporteur also received information indicating high levels of violence against women from religious and ethnic minority communities, with Dalits, Hindus and indigenous groups most at risk.[15] Persecution of minorities includes rape and sexual assault of women in these communities.[16] The rate of rape is higher for minority women in Bangladesh because they are considered "double infidels" for being women and also for being part of a religious minority.[17] They are also commonly victims of *salish*/*fatwa*-related violence.

17. Community violence is also reportedly perpetrated against representatives of women's rights organizations and other human rights organizations working on women's rights. Women human rights defenders are targeted not only because they defend the rights of women, but also because they are women themselves. While reclaiming their rights or the rights of their communities, women human rights defenders are commonly perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes about femininity and the role and status of women in society.[18] In Bangladesh, human rights defenders commonly face harassment and/or slander by the community or by State officials because of their activism. The abuse ranges from verbal assaults to slander campaigns in the press, administrative harassment and even sexual harassment. The Special Rapporteur was informed that most of these violations remain unpunished.[19]

C. Violence perpetrated and/or condoned by the State

18. The main manifestations of violence perpetrated and/or condoned by the State include custodial violence and violence in militarized zones.

19. During the visit to the women's ward in the Dhaka Central Jail, the Special Rapporteur noted shortcomings in the conditions of detention, especially with regard to detainees' access to health care and hygiene. She was informed that incarcerated women did not have adequate legal representation or contact with their families. The lack of privacy resulting from the overcrowded facilities, and also the overt scrutiny by the authorities, make it difficult to hold confidential meetings, including during the visit of the Special Rapporteur. Nevertheless, she heard various testimonies from women, including those on death row. In the latter category, the interviews reflect incarceration for crimes that do not amount to "the most serious crimes" under applicable international standards. They also revealed deficiencies in the safeguards guaranteeing protection of the rights of those facing the death penalty.

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[13] http://www.hrw.org/news/2011/07/06/bangladesh-protect-women-against-fatwa-violence; http://www.blast.org.bd/content/judgement/ejp-judgment-8July2010.pdf.

[14] Human Rights Watch, "Bangladesh: protect women against 'fatwa' violence", 7 July 2011. Available from http://www.hrw.org/news/2011/07/06/bangladesh-protect-women-against-fatwa-violence.

[15] Mortuza Ahmmed, "Violence against the minorities in Bangladesh", *Romanian Review of Social Sciences*, No. 4 (2013).

[16] Md. Rajib Hasnat Shakil, "Systematic persecution of religious minorities: Bangladesh perspective", *IOSR Journal of Humanities and Social Science*, vol. 7, No. 3 (January–February 2013), available from http://www.iosrjournals.org/iosr-jhss/papers/Vol7-issue3/B0730917.pdf.

[17] *Ibid.*, p.12.

[18] A/HRC/20/16, para. 53.

[19] Observatory for the Protection of Human Rights Defenders, *Bangladesh: Human Rights Defenders Trapped in a Polarised Political Environment* (2013).

20. The Chittagong Hill Tracts remain a highly militarized region despite the existing peace accord of 1997 between the Government and the indigenous peoples' political party, Parbatya Chattagram Jana Samhati Samiti.[20] Among other things, the peace accord provides for a phased withdrawal of all temporary camps and the transfer of power to civilian authorities in the Chittagong Hill Tracts region. Interlocutors alleged that since 2007, most incidents of sexual violence have reportedly been perpetrated by Bengali settlers, who are seldom prosecuted for such crimes. The Special Rapporteur sought to examine the prevalence of other manifestations of violence against women, particularly intracommunity, but she did not receive any information on this issue during her visit.

D. Violence against women in the transnational sphere

21. The Special Rapporteur received reports of human rights violations, including violence against women, occurring in the Kutupalong refugee camp, which houses the Rohingya community near Cox's Bazar. Regrettably, the Special Rapporteur was denied access to the camp by Government authorities, thus preventing her from assessing the situation directly, including through interactions with women residents of the camp.

22. According to sources, violence against women remains prevalent in the official refugee camps, with more than 70 per cent of reported cases relating to domestic violence. Other reported cases include rape, attempted rape, child marriage, forced prostitution and trafficking. Further, refugee women living in the camps are not allowed to leave home without their husbands' permission and have fewer opportunities than men to participate in social activities; many girls who reach puberty are removed from school for marriage purposes. The Special Rapporteur is further concerned at the high number of people living under adverse conditions in makeshift camps, and notes the lack of data as regards these camps.[21]

23. Trafficking in persons continues to be a major problem, with Bangladesh being mainly a source country for men, women and children subjected to forced labour and sexual exploitation. Given the reluctance of victims' families to report cases of trafficking, it is difficult to access comprehensive data and statistics on the magnitude of the phenomenon. Estimates from various sources state that over 200,000 women and children have been trafficked during the past decade, with trafficking occurring both internally and across the border with neighbouring countries, under the guise of a better life and job opportunities.[22]

24. A conservative estimate reflects that there are approximately 7.7 million Bangladeshi migrants worldwide.[23] In 2011, it was estimated that 5.4 per cent of the migrant population was female.[24] Many women migrate to the Middle East through regular and irregular channels in search of better employment opportunities, but most of them are employed as domestic workers. They suffer various forms of abuse both during the process of migration and upon arrival, including domestic servitude, sexual harassment, physical mistreatment, withholding of payments and threats of denunciation of their irregular status.

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[20] According to the International Work Group for Indigenous Affairs (*Militarization in the Chittagong Hill Tracts, Bangladesh: the Slow Demise of the Region's Indigenous Peoples* (Copenhagen, 2012)), there are reportedly around 50,000 to 60,000 armed personnel still stationed in the region.

[21] Information provided by the Office of the United Nations High Commissioner for Refugees.

[22] United Nations Office on Drugs and Crime, Interview with Professor Zafir Hossain, Dean, Faculty of Law, University of Chittagong.

[23] International Organization for Migration–Dhaka, "About migration: facts and figures". Available from http://www.iom.org.bd/page/facts-and-figures/.

[24] *Ibid.*

The Special Rapporteur heard testimonies from female migrant workers who had been subjected to ill-treatment and corporal punishment in the destination country. Some young women were reported to have been sent back home after becoming pregnant as a result of sexual violence. Others returned to Bangladesh without receiving their full salaries or access to remedies for violations experienced.

III. Implications of inequality, discrimination and violence for the realization of human rights

25. Throughout Bangladesh, women and girls are prevented from fully enjoying their human rights both in law and in practice due to inequality and discrimination. Often, they are denied access to effective participation in all spheres of life. They are also denied education and employment opportunities and quality health services, and are subjected to all kinds of violence and abuse.

26. The adoption and/or review of legislation to ensure conformity with international human rights principles and standards is a welcome step. Unfortunately, law reforms will yield little positive results if the root causes of the diverse manifestations of violence against women and persisting stereotypes are not addressed, including through legal, political and social transformation efforts.

A. Civil and political rights

27. In Bangladesh, women's access to justice and participation in political and public life are particularly affected by violence against women.

28. Some measures have been put in place towards the empowerment of women and to increase women's political participation. For example, at the executive and legislative levels, the positions of Prime Minister, Speaker of Parliament, Leader of the Opposition and Foreign Minister are held by women. A number of mid-level positions in Government are occupied by women. Furthermore, the Fifteenth Amendment Act of 2011 increased the number of seats reserved for women in Parliament from 45 to 50. However, out of a total of 350 seats available in Parliament, women only hold 70 seats, a mere 20 per cent. The Special Rapporteur was informed that women are not sufficiently represented at the district and subdistrict levels. Also, once in office, female representatives often face discrimination from their male counterparts.

29. Personal status and family law, which are core to women's citizenship rights including their effective participation in public life, continue to discriminate against women and girls with respect to marriage, divorce, separation, guardianship, maintenance, adoption and succession. These personal status laws include both codified and uncodified rules, many of which were inherited from the colonial era.[25] There are also a number of discriminatory civil laws that are applicable to all religious communities in the context of marriage or divorce, such as the Special Marriage Act of 1872, the Child Marriage

[25] The key codified laws governing marriage and divorce in Bangladesh include, for Muslims: the Muslim Family Laws Ordinance (1961), the Dissolution of Muslim Marriages Act (1939) and the Muslim Marriages and Divorces (Registration) Act (1974); for Hindus and Buddhists: the Hindu Married Women's Right to Separate Residence and Maintenance Act (1946); and for Christians: the Christian Marriage Act (1872) and the Divorce Act (1869).

Restraint Act of 1929, the Family Courts Ordinance of 1985 and the Guardian and Wards Acts of 1890.[26]

30. Generally speaking, personal status laws in Bangladesh are discriminatory against women. Polygamy is allowed within both Muslim and Hindu/Buddhist personal laws. Personal laws governing both Christians and Muslims set out unequal divorce criteria for men and women, and laws governing Hindus/Buddhists do not allow divorce to take place. For women subject to any of these laws, maintenance during marriage is subject to the subjective conditions of "chastity" and wives being "dutiful". Only Christian personal laws refer to maintenance after divorce, yet this is reportedly rarely provided in practice. Furthermore, none of the personal laws recognize marital property, regardless of the women's contribution. For Hindu and Buddhist women, there is no mandatory marriage registration, leaving women in a very vulnerable position with regard to proving legitimacy of children, establishing rights to maintenance and/or pension, or for immigration purposes.[27]

31. As a result of these discriminatory laws, many women stay in violent marriages out of fear that their *de jure* and *de facto* legal status will be negatively impacted, and also that they will be denied financial support if they are divorced or separated.[28]

32. The right of access to justice and justice itself is problematic on many levels. The judicial system is faced with many challenges that have a negative impact on ensuring equal access to justice. Limited resources, poor infrastructure and the limited number of trained judges and lawyers, among others, have had a negative effect on women's capacity to seek redress through the judicial system. Despite constitutional guarantees with regard to due process, the Special Rapporteur was informed that law enforcement agencies often fail to uphold the relevant legal standards when dealing with cases of violence against women. The existence of parallel legal systems such as the *salish* further compounds the denial of effective justice.

33. While the Constitution stipulates that Islam is the State religion, it also provides that "subject to law, public order, and morality, every citizen has the right to profess, practice, or propagate any religion".[29] Nonetheless, conservative interpretations of religion impact on the promotion and protection of women's human rights, particularly on equality and non-discrimination rights. The 13-point demand of the Hefajat-e-Islam, a fundamentalist Islamic group, calling for gender segregation is of particular concern. *Fatwa* rulings also remain widespread throughout the country, despite the fact that in 2010, the Supreme Court declared that the "imposition and execution of extra-judicial penalties including those in the name of execution of Fatwa, is bereft of any legal pedigree and has no sanction in laws of the land".[30]

34. Activists who work to defend human rights, including the human right of women to be free from discrimination and violence, face particular obstacles, including being abducted by members of the Bangladesh Army in the Chittagong Hill Tracts.[31] Other

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[26] See Human Rights Watch, "Will I get my dues…before I die? Harm to women from Bangladesh's discriminatory laws on marriage, separation, and divorce" (2012).

[27] *Ibid.*

[28] *Ibid.*

[29] See the Constitution of Bangladesh, Articles 2A and 41.

[30] Judgement of the Supreme Court of Bangladesh on 8 July 2010 on Writ Petitions No. 5863 of 2009, No. 754 of 2010 and No. 4275 of 2010, available from http://www.humanrights.asia/countries/bangladesh/countries/bangladesh/cases/Judgment%20on%20Fotwa%20and%20illegal%20punishment-ejp-judgment-8July2010.pdf.

[31] See annex.

allegations of harassment, arbitrary arrests and detention of activists have been the subject of a number of communications sent to the Government over the past two years by different Special Procedures mandate holders.[32]

B. Economic rights and the right to development

35. Bangladesh ranks as one of the world's most disaster-prone countries, with 97.1 per cent of its total area and 97.7 per cent of its population at risk of multiple hazards.[33] Despite the challenges, the Government remains committed to alleviating poverty and aims to become a "middle-income" country by 2021. The number of people living in poverty in Bangladesh has already been reduced by 8 million in five years. [34]

36. The Government of Bangladesh has taken positive steps towards the empowerment of women, including through the 2011 National Women's Development Policy that seeks to reduce violence; eliminate discrimination; increase access to education, health and employment; and address the special needs of older women, women with disabilities and women from indigenous and marginalized communities. The Ministry of Women and Children is responsible for preparing a work plan for the National Women's Development policy and for developing laws and policies to ensure economic empowerment and participation of women. It has allocated funding in its projected 2013–2014 budget for the policy.[35] However, the estimated expenditure from 2013 to 2014 on a national action plan for the implementation of the policy is zero, and no portion of the Ministry's budget was spent on the policy in its 2011–2012 and 2012–2013 periods. Moreover, the Ministry's most recent budget report projects zero expenditure on the policy in the coming years.[36]

37. The Government is currently implementing Vision 2021, which aims to make Bangladesh a middle-income country by 2021. The outline of the Vision 2021 plan states that the Government aims to achieve gender equality by addressing the poverty issues faced specifically by women.[37] Under Vision 2021, the Government will address women's issues in health, law and order, food security and economic opportunities, among other development areas. It also promotes gender balance in Government by introducing a separate quota system for women in Parliament and reserving 100 seats for women in direct government elections.[38] Moreover, it seeks to incentivize women to pursue vocational, primary, secondary and tertiary education and attain the necessary training to compete

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[32] See, for example, communication No. UA G/SO 218/2 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) BGD 10/2013 dated 6 September 2013.

[33] United Nations International Strategy for Disaster Reduction, *2009 Global Assessment Report on Disaster Risk Reduction: Risk and Poverty in a Changing Climate: Invest in Today for a Safer Tomorrow* (United Nations, Geneva, 2009).

[34] Md. Shahidul Haque, Foreign Secretary of Bangladesh, statement to the Asia–Pacific Ministerial Dialogue: From the Millennium Development Goals to the United Nations Development Agenda beyond 2015, 27 August 2013.

[35] http://mof.gov.bd/en/budget/11_12/mtbf/en/30_Women.pdf.

[36] http://mof.gov.bd/en/budget/13_14/mtbf/en/MBF_30_Women%20&%20Children_English.pdf.

[37] Bangladesh, General Economics Division, Planning Commission, *Outline Perspective Plan of Bangladesh 2010–2021: Making Vision 2021 a Reality* (Dhaka, 2010), available from http://planipolis.iiep.unesco.org/upload/Bangladesh/Bangladesh_Final_Draft_OPP_June_2010.pdf, p.8.

[38] *Ibid.*

equally in the job market.[39] In implementing Vision 2021, the Government also plans to amend laws that discriminate against women.[40]

38. The Special Rapporteur noted that existing schemes aimed at empowering women economically in Bangladesh seem to be tailored to specific sectors traditionally believed to be "suitable" for women, thereby perpetuating gender-biased stereotypes in employment. Women constitute a high proportion of unpaid family workers. For example, they work on family farms, in family businesses or in the household without pay.[41] They often use the microloans to start garment, agricultural or grocery businesses, areas that are typically associated with women.

39. The Special Rapporteur was informed that women resorting to microcredit loans often face problems with regard to timely repayment, thus increasing their vulnerability to violence: sources indicated that people in charge of granting loans and collecting weekly payments often resort to violence when collecting the loans. It was argued that repayment creates an environment of fear and intimidation, and recipients regularly sacrifice basic needs to meet a sometimes inflexible repayment schedule.[42]

40. Women make up approximately 36 per cent of the formal labour force in Bangladesh.[43] The 2006 Labour Act contains several provisions aimed at protecting the rights of workers. However, certain categories of workers, including domestic and agricultural workers, are not protected under this law. A very high percentage of the informal sector labour force is comprised of women who work mainly as domestic workers, in the shrimp cultivation sector and in the garment factories. The latter is a multimillion dollar business employing around 3 million people, 80 per cent of whom are women. Many stakeholders highlighted the poor working conditions under which women work, which are exacerbated by the lack of adequate safeguards in labour laws and regulations and which increase their vulnerability to abuse and exploitation.

41. Sexual harassment at work affects women's efforts to secure livelihoods. On 14 May 2009, the Supreme Court of Bangladesh issued specific guidelines against sexual harassment, which have provided a legal basis to address this form of violence until a law on the prevention of sexual harassment is adopted.[44] The Special Rapporteur was informed that a draft law was prepared in 2010 by Bangladesh National Women Lawyers Association in consultation with the Law Commission, and has been submitted to the relevant authorities. The Special Rapporteur is concerned that the law has been at the drafting stage for the past three years. On 26 January 2011, the Supreme Court also declared the stalking of girls and women illegal, and directed the Government to use the term "sexual harassment" instead of the widely used term of "eve teasing". The Court's ruling came amid growing instances of stalking that have led to the suicide of many victims.

42. The migration of women to foreign countries for domestic and other labour also gives rise to exploitation both inside and outside of Bangladesh. It is estimated that between January and June 2012 alone, 375,000 workers migrated abroad, including approximately

[39] *Ibid.*, p. 7.

[40] *Ibid.*

[41] See "Will I get my dues…before I die?" (footnote 26 above), p. 23.

[42] Jason Cons and Kasia Paprocki, "The limits of microcredit – a Bangladesh case", *FoodFirst Background*, vol. 14, No. 4 (Winter 2008).

[43] See International Labour Organization, *Bangladesh Decent Work Country Programme 2012–2015* (November 2012).

[44] Guidelines on prevention of sexual harassment laid down by the Supreme Court of Bangladesh on 14 May 2009 in *Bangladesh National Women Lawyers Association* v. *Government of Bangladesh and Others* (Writ Petition No. 5916 of 2008).

16,000 female workers.[45] Remittances by migrant workers reportedly contribute to around 13 per cent of the country's gross domestic product, moving the Government to place overseas employment as one of its priorities to foster economic development. Female migrant workers face more problems than their male counterparts when migrating abroad. They are frequently abused throughout the process of migration, and continue to struggle upon return due to the various challenges of reintegration. They are often unable to receive appropriate legal representation and access to justice while abroad, because of language barriers among other reasons, and do not receive compensation if their rights are violated.

43. The gendered aspects of issue of forced evictions and displacement due to economic development projects such as dams, eco- and national parks, and military bases, were raised as an issue of concern.

C. Social and cultural rights

44. Women's enjoyment of human rights is generally impacted by the social and cultural constructions of gender. In Bangladesh, women's roles and status are marked by duties as homemakers, and more specifically as mothers. These stereotypes place women at a disadvantage and prevent women from fully enjoying their rights to, among others, health and education. They also prevent women from contributing to the overall transformation and development of their society.

45. The right to health has been recognized in the Constitution as one of most basic necessities of citizens. In the last five decades, there has been an increase in the life expectancy of Bangladeshi women from 46.7 years in 1960 to 69 years in 2011.[46] Bangladesh Maternal Health Services have also reported a decline in maternal mortality rates from 322 in 2001 to 194 in 2010 (a 5.5 per cent rate of decline per year).[47] Furthermore, the proportion of women delivering in a health facility increased from 9 per cent in 2001, to more than 23 per cent in 2010.[48] However, the Special Rapporteur remains concerned that maternal deaths continue to be responsible for 14 per cent of all deaths among Bangladeshi women of reproductive age, mostly due to post-partum haemorrhages and eclampsia, and to the lack of access to comprehensive medical care.[49]

46. The Special Rapporteur notes that Bangladesh has achieved gender parity in primary and secondary education at the national level. This was achieved through specific interventions focusing on girl students, such as stipends and exemption of tuition fees for girls in rural areas, and the stipend scheme for girls at the secondary level. In addition, the Government has incorporated issues related to violence against women in its revised curricula and textbooks. Nonetheless, one fifth of children of primary school age (6–10) reportedly never attend school as a result of poverty, making them vulnerable to neglect, violence and exploitation. The Special Rapporteur notes that the prevailing level of violence against girls, including harassment by both teachers and fellow pupils in schools or on the way to and from school, early marriages and the absence of suitable toilets for girls, continue to result in high dropout rates among girls, especially in rural areas.

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[45] *Ibid.*

[46] http://www.unicef.org/infobycountry/bangladesh_bangladesh_statistics.html.

[47] Angélica Arbulú and Mansud Ali, *Final Evaluation of Joint Programme to Address Violence against Women in Bangladesh* (2013).

[48] *Ibid.*

[49] National Institute of Population Research and Training, MEASURE Evaluation, UNC-CH USA, and icddr,b, *Bangladesh: Maternal Mortality and Health Care Survey 2010* (Dhaka, 2012).

47. Bangladesh has one of the highest child marriage rates worldwide.[50] Early marriages have serious consequences for the health, education and development rights of girls. The country also has one of the lowest birth registration rates, which hinders the effective implementation of laws against child marriages.

48. In addition to their low social and cultural status, the persistence of patriarchal and harmful practices, such as the payment of dowry, also negatively impact women's enjoyment of their social rights and increase their risk of experiencing violence. Dowry payment is one of the main sources of economic concern for families, which may force daughters to marry young, or to marry elderly/married men to reduce dowry payments. The social pressure of marrying women to equally or higher educated grooms, who require a higher dowry payment, is sometimes also a deterrent for families to continue with their daughters' education.[51] A 2010 study found that the absence of dowry demand in marriages lowered the likelihood of physical abuse of wives in rural settings, as well as its frequency and severity in both rural and urban settings, compared with marriages where dowry was demanded and fully paid. The report also found that the non-payment of dowry increased the likelihood of abuse and its frequency and severity in households in which it had been demanded.[52]

IV. Challenges in fulfilling the State's obligation to act with due diligence to eliminate violence against women

49. The Government of Bangladesh has committed to protecting and promoting the rights of women through its ratification of numerous international human rights instruments and has entered reservations to articles 2 and 16.1 (c) of the Convention on the Elimination of All Forms of Discrimination against Women, which respectively address the core obligation of States to eliminate discrimination under law (article 2) and eliminate discrimination in marriage and family relations (article 16). During the visit, the Special Rapporteur was informed that the withdrawal of those reservations was under consideration. Bangladesh also declared that "it would not undertake the obligations arising out of Articles 8 and 9 of the Optional Protocol" to the Convention, i.e. the recognition of the Committee's jurisdiction to investigate "grave or systemic violations" of the Convention.

50. Over the past two decades numerous laws, policies and programmes have been put in place to address the needs of women generally, and violence against women specifically. These include: the Human Trafficking Deterrence and Suppression Act 2012; the Hindu Marriage Registration Act 2012; the National Women's Development Policy 2011; the Domestic Violence (Prevention and Protection) Act 2010; the Citizenship Amendment Act 2009; the Bangladesh Labour Act 2006; the Acid Crime Prevention and Acid Crime Control Acts 2002; and the Prevention of Women and Children Repression Act 2000. Despite these developments, women continue to face discrimination on the basis of sex and on other grounds and are unable to effectively enjoy their human rights.

51. The National Human Rights Commission was established in 2008 under the National Human Rights Commission Ordinance. In the absence of an independent national commission on women's rights, the Commission has a women's cell mandated to monitor

[50] *The State of the World's Children 2013* (see footnote 9 above).

[51] S.M. Shahidul, "Marriage market and an effect on girls' school dropout in Bangladesh", *Journal of Alternative Perspectives in the Social Sciences*, Vol. 4, No. 2 (2012).

[52] Ruchira Tabassum Naved, "Dowry and spousal physical violence against women in Bangladesh", *Journal of Family Issues*, vol. 31, No. 6 (June 2010).

the rights of women in Bangladesh. It has launched campaigns to raise awareness on the issue of violence against women, and reports such campaigns as being some of their more successful ones.[53] It has also published an extensive report analyzing the impact of the Higher Judiciary's decisions on the protection of women's rights and how the Court's decisions measure against international human rights norms.[54] In spite of its limited human, technical and financial resources, the Commission has been a key institution in shaping the country's human rights discourse and providing a wide range of training to various institutions, state agencies, the media and the population at large.

52. Protective and preventative measures require the development of national data collection systems. Unfortunately, this does not exist in Bangladesh. At the central level, the Ministry of Home Affairs and the Ministry of Women and Children's Affairs compile statistics of cases received through their decentralized units. There is also a database on cases of violence against women under the Multi-Sectoral Programme on Violence against Women. However, those statistics do not accurately reflect the scale of the problem *de facto*.

A. Prevention

53. Despite the adoption of relevant legislation, there is a general lack of awareness of such laws, poor implementation by state agents and a reluctance of women to use the justice system as a means to seek redress.

54. The Dowry Prohibition Act adopted in 1980 prohibits dowry in all its forms and makes it punishable by fine, imprisonment of up to one year or both. However, in most cases, the perpetrators are not brought to justice for various reasons, including threats to the victim or her family, bribing of police officers and lack of forensic evidence. In many cases, victims are also persuaded to reach a compromise with the perpetrator.

55. As regards acid attacks, the Acid Crime Control Act of 2002 stipulates that the punishment for killing a person with acid or injuring a person resulting in the loss of vision, hearing, or damage or disfigurement of the face, breasts or sexual organs can result in capital punishment or life imprisonment and a fine not exceeding one *lakh taka* (approximately USD 1190). Furthermore, damage for disfigurement to any part of the body will result in a 14-year prison sentence or at least 7 years of "rigorous imprisonment".

56. As regards provisions in the Penal Code, the Special Rapporteur was concerned that marital rape is only recognized as an offence under the Penal Code if the child bride is younger than 13 years old.[55]

57. The Suppression of Violence against Women and Children Act came into force in February 2000. It is intended to address the need for more effective prosecution of perpetrators of violence against women and children than existed previously, and provides redress for victims of various manifestations of violence, including trafficking and acid throwing. The Act makes provision for compensation for the victim, as well as remedial measures for negligence or wilful faults committed by an investigating officer. Other features of the Act include provisions for the speedy investigation and trial of cases by the

[53] National Human Rights Commission, *Annual Report, 2012* (Dhaka), p. 13. Available from http://www.nhrc.org.bd/PDF/Annual%20Report%20English%202012.pdf .

[54] National Human Rights Commission, *Analysis of Decisions of the Higher Judiciary on Protection of Women's Rights in Bangladesh* (Dhaka, 2013), available from http://www.nhrc.org.bd/PDF/Study%20reports/Protechtion%20fo%20Women.pdf.

[55] See section 375 of the 1860 Penal Code.

tribunals, crimes under this law being mostly non-bailable, and the creation of specific tribunals for every district town to address related cases.

58. The Domestic Violence (Prevention and Protection) Act was enacted in 2010, and reiterates that domestic violence is a matter requiring the intervention of the State. The Act includes a broad definition of domestic violence that includes physical, psychological, economic and sexual abuse, and refers to persons who are, or have been, in a family relationship. The Act includes provisions for shelter homes, as well as medical and legal aid services for victims. It also grants Judicial Magistrates the power to award interim orders, such as protection orders, residential orders, maintenance orders and safe custody orders. The Act also includes provisions regarding the compensation of damages, a 60-day time period to have cases heard by a court and specific penalties for perpetrators, including prison terms and fines.

59. The Special Rapporteur was informed of the remaining challenges in the implementation of the law, mainly the lack of awareness of its existence by both authorities and victims. Advocates claim that the number of cases filed under the new law actually diminished after the first year of its enactment, and that domestic violence cases are still being largely processed under other legislation such as the Penal Code or the Dowry Prohibition Act, thus failing to benefit from some of the provisions in the new law. Advocates also reiterated the urgency of enacting the rules to carry into effect the provisions of the Act. These rules would include practical provisions regarding, *inter alia*, the duties of police officers and courts in domestic violence cases, the coordination between different intervening authorities, and adequate case management and data collection.

60. A Central Cell on the prevention of violence against women has been set up in the Ministry of Women and Children's Affairs to coordinate violence-related cases with other agencies.[56] This Cell receives complaints from the victims, mediates conflict through counseling and settles monetary disputes in relation to dowry. Temporary shelters have also been arranged to provide support to women who have been victims of violence.

61. In terms of awareness-raising campaigns and training, the Ministry of Information's Press Institute organizes training workshops for journalists on child labour, corporal punishment, and children and women's development issues through its Advocacy and Communication for Women and Children project financed by UNICEF since 1996. The National Human Rights Commission has also published various awareness-raising materials, including a human rights training manual for the police.

B. Protection

62. Measures by which States can fulfill their due diligence obligation to protect women from violence include the provision of services such as telephone hotlines, health care, counselling centres, legal assistance, access to shelters, restraining orders and financial aid to victims.[57] The Government of Bangladesh has put in place several protection measures over the past few years, including the One-Stop Crisis Centres, a National Trauma Counseling Centre and a Helpline.

63. One of the key features of the Domestic Violence (Prevention and Protection) Act 2010 is the issuance of protection orders. A protection order restrains the respondent from committing any act of domestic violence, entering the victim's place of employment or school and having any personal, written or any form of communication with the victim. In

[56] See CEDAW/C/BGD/5.

[57] E/CN.4/2006/61, para. 47.

addition to protection orders, courts can also issue residence and maintenance orders.[58] Although the Act came into force in 2010, victims are often unable to benefit from it due to a lack of awareness of its existence; structural, institutional and procedural obstacles that the victims may face within the justice system; and the limited forms of services available. Under this Act, victims have the right to legal assistance, counselling and shelter, and are allowed to file compensation claims. The perpetrators of domestic violence can face up to six months' imprisonment and up to two years in case of multiple offences. Despite these provisions, victims of violence are reluctant to seek support through the justice system due to several factors, including community pressure and stigma, the lack of responsiveness by the justice system, pressure to withdraw complaints by local police and also the length of proceedings. The Act remains underutilized and limits the protective value of the law.

64. Active steps have been taken to redefine the police force as a service. Gender guidelines have been drafted for model police stations through the police reform programme. The Special Rapporteur was informed that the police apply a "zero tolerance" policy when dealing with cases of violence against women. The Government has also taken measures to promote gender-sensitive policing and improve victim support services through its Police Reform Programme. In 2009, the first Victim Support Centre was established at Tejgaon Thana Model Police Station. The rehabilitation services are implemented by 10 NGOs who have signed Memoranda of Agreement with the police. The establishment of such a centre within a policing environment has encouraged victims to report crimes to the police in a safe and secure environment, while accessing professional services.[59] The Special Rapporteur was informed by officials in Rangamati that, while attempts to increase the recruitment of female officers have been made, there are currently only 5,000 women out of 14,000 police officers. The Special Rapporteur was concerned to hear male representatives of the police force in Khulna alleging that some victims engage in false reporting of incidents of rape or sexual assault in order to punish partners for refusing to commit to a relationship. She considers that these attitudes perpetuate stereotypes.

65. The Government of Bangladesh co-sponsors two large-scale programmes to address violence against women: a Multi-Sectoral Programme on Violence against Women under the Ministry of Women and Children's Affairs and a Joint United Nations Programme to Address Violence against Women. Under the Multi-Sectoral Programme on Violence against Women, seven One-Stop Crisis Centres have been established in public hospitals where victims receive medical, psychosocial and legal assistance. There is also a National Trauma Counselling Centre and Helpline. The Joint United Nations Programme to Address Violence against Women was designed in 2008 with a view to address violence against women through a three-tier strategy that consists of fostering the adoption and implementation of policies aimed at preventing violence and protecting victims, encouraging societal transformation to reduce violence against women and providing a comprehensive assistance package for victims.

66. The Special Rapporteur visited the One-Stop Crisis Centre and shelter run by the Ministry of Women and Children's Affairs in Dhaka. She was informed that women could stay in temporary shelters for a maximum period of six months with two children under 12 years old. The Special Rapporteur, however, received complaints regarding the living conditions, limited freedom of movement and the overall quality of services provided in the shelters. The situation of children living with their mothers in these shelters is of great concern. The Special Rapporteur was informed of cases where children were forced out of

[58] Domestic Violence (Prevention and Protection) Act 2010, sections 14–16.

[59] Fawzia Khondker, "Gender sensitive policing: Programme of Police Reform", *NIPSA Quarterly* (April 2013).

school for the entire duration of the mother's stay, without being offered any suitable alternatives.

67. In Jessore, the Special Rapporteur visited a shelter run by an NGO. She noted the limited availability of space to accommodate victims of violence and their families. The lack of availability of shelters, both State and non-State, was expressed as a major source of concern by a number of NGOs during the visit.

68. The Special Rapporteur was also concerned with the lack of guidelines to guarantee the protection of victims of violence in safe custody. According to NGO interviewees, in some criminal cases, victims are arrested together with the perpetrators and courts may issue a "safe custody" order through which women are placed in mixed jails. This is also due to the fact that at least 20 districts reportedly do not have shelters, so this form of "safe custody" is often resorted to. Activists indicated that jail officers even make up their own rules regarding the condition of these "safe custody" provisions, including the allocation of rooms and/or the visiting hours.

69. Protection for victims of acid attacks is covered by the Acid Control Act of 2002, which prescribes, *inter alia*, the provision of treatment and legal aid to victims of acid crimes, as well as the establishment of a rehabilitation centre for victims. However, in practice, there is only one burn unit located in the capital, which makes it difficult for victims living outside of Dhaka to receive appropriate and timely medical care. Most victims die as a result of septicaemia caused by severe infections. The ones who survive are left with pain, numerous and costly medical procedures, permanent disfigurement and social stigma.[60]

70. In an effort to provide better protection for victims of trafficking, the Government signed the SAARC [South Asian Association for Regional Cooperation] Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2002[61] and recently enacted the Human Trafficking Deterrence and Suppression Act of 2012. In addition, the Ministry of Home Affairs has set up a task force for the rescue, recovery, repatriation and reintegration of victims of trafficking. Although the law provides severe penalties for trafficking, impunity is the norm for traffickers because of a lack of enforcement of the existing laws and policies.

C. Investigation, prosecution and punishment

71. In Bangladesh, the main challenges relating to the investigation, prosecution and punishment of perpetrators for acts of violence against women are due to the lack of: coordinated criminal justice response; expertise and adequate mechanisms to conduct credible investigations; comprehensive redress mechanisms; and understanding of the root causes and consequences of violence against women.

72. Corruption was also identified as one of the main obstacles to women's access to justice, as bribes and/or influence are often required for cases to move through the different stages of the criminal justice system. Victims and their families often have to pay bribes or use political connections to register a complaint before the police and to have investigations conducted. It is not uncommon for perpetrators to have more connections, power or

[60] Ashfaq Yusufzai, "Acid survivors say theirs is a fate worse than death", 28 June 2013. Available from http://www.ipsnews.net/2013/06/acid-survivors-say-theirs-is-a-fate-worse-than-death/.

[61] Signatories to the SAARC Convention include Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

resources than victims, which are deployed to influence the police, stall investigations or harass and pressure victims to drop charges.[62]

73. There is reportedly also a lack of basic expertise and facilities for the conduct of investigations, particularly in crimes relating to sexual violence. Police officers often fail to collect necessary evidence or deliberately destroy it. While medical examinations are supposed to be completed as soon as possible after an incident of sexual violence is reported, delays are common in conducting medical examinations, preparing the medical reports and submitting them to the competent courts. Furthermore, it is reported that victims have no guarantees that their injuries will be properly documented and reflected in medical examination reports, due to factors such as the patriarchal mindset of the police and doctors; inefficiency; lack of modern facilities; and corruption throughout the process.[63]

74. In 2002, the Ministry of Health issued a circular that set out guidelines for the medical examination of women and children victims of rape. This circular is complemented by the provisions set forth in the 2000 Prevention of Women and Children Repression Act.[64] The Special Rapporteur is concerned at the continued use of the two-finger test, also known as virginity testing, despite consensus that this test has no evidentiary value or scientific merit. These tests breach international standards on evidence gathering and further traumatize victims.[65] The Special Rapporteur welcomes the October 2013 directive from the Supreme Court urging relevant authorities[66] to show cause within four weeks as to why this test should not be declared to be without lawful authority and of no legal effect.

75. The coexistence of multiple legal orders also impacts on women's access to justice and due process. Traditional customary practices and forums of arbitration and sentencing (*salish*) prevail in rural areas as an alternative to the courts, which are seen as highly bureaucratic, overburdened with a huge backlog of pending cases[67] and costly.[68] The imposition of punishments through the *salish* system is often public, arbitrary and humiliating for the victims.

76. Given the existing challenges of inaccessibility, cost and length of court procedures, many victims and their families have opted for alternative dispute resolution (ADR). Some civil society organizations have provided valuable support by offering mediation services, particularly to rural women who are unlikely to find justice through the criminal justice system or the local *salish* system. While some of these NGOs strive to ensure that ADR allows women's voices to be adequately heard and their rights to upheld, this cannot be guaranteed in all cases, given the prevailing patriarchal and male-biased context, as well as the lack of sufficient gender-sensitive mediators/facilitators. Furthermore, it has been noted that ADR cannot help diminish domestic violence or demands for dowry, or stop

[62] Information provided by the Asian Human Rights Commission and Odhikar in the context of the Special Rapporteur's visit.

[63] *Ibid.*

[64] *Ibid.*

[65] *Ibid.*

[66] The relevant authorities include: the Secretary, Ministry of Health and Family Welfare; the Secretary, Ministry of Home Affairs; the Director General, Directorate of Health Services; and the Inspector General of Police.

[67] The Special Rapporteur was informed during meetings with several State officials that there was a backlog of more than 1 million cases.

[68] Habibul Haque Khondker, "Modern law, traditional 'Salish' and civil society activism in Bangladesh", *ISA eSymposium for Sociology* (July 2012). Available from http://www.isa-sociology.org/publ/E-symposium/E-symposium-vol-2-2-2012/EBul-Khondker-Jul2012.pdf.

perpetrators from threatening women.[69] The use of ADR does not allow for the development of positive jurisprudence for cases of violence against women. The Special Rapporteur was informed that a revision of the criminal procedure code was underway to allow the resolution of disputes through mediation by judges.

77. A number of Special Tribunals on violence against women were established to monitor the implementation of the 2000 Prevention of Women and Children Repression Act. During her visit to the Special Tribunal on violence against women in Dhaka, the Special Rapporteur was informed that one of the judges had been relocated and would not be replaced. This has had a significant impact on the number of cases being processed by the court. She regrets that she was refused an opportunity to engage with the judges during the visit. Nevertheless, she observed flaws in the protection of victims and witnesses as regards their right to a fair trial. Furthermore, a recent NGO research report points to major obstacles to justice that include stigma, lack of support, fear of reprisals and intrusive or discriminatory procedures during investigation and prosecution, including in the existing procedures for collecting medical evidence that fall short of recognized standards.[70]

78. As regards the judiciary, problems include a lack of accountability, severe backlogs of pending cases, a lack of sufficient number of judges, discriminatory and patriarchal attitudes, and the incorrect formulation of cases. The Special Rapporteur was informed of a training manual for judges and prosecutors on how to address violence against women, which was developed by the Ministry of Law, Justice and Parliamentary Affairs and the Judicial Administration Training Institute, in collaboration with the International Organization for Migration. The manual was reportedly used by the Institute in implementing a number of programmes and training sessions for judges and lawyers, and used as a reference document by other relevant stakeholders. The initiative sought to train a total of 960 judges and 320 prosecutors from all the courts of Bangladesh by June 2013.[71]

D. Provision of effective remedies including reparations

79. The Special Rapporteur notes that the provision of effective remedies involves "ensuring the rights of women to access both criminal and civil remedies and the establishment of effective protection, support and rehabilitation services".[72]

80. Under existing legislation, compensation can be provided only to the victims who use the formal justice system. For instance, the Domestic Violence (Prevention and Protection) Act 2010 provides that the Court may "direct the respondent to return to the possession of the victim any immovable property, her stridhan or dower or alimony, or any other marital property ... or valuable security to which she is entitled". The Act further provides that a victim may file a claim for compensation "if there is any personal injury or financial loss or trauma or psychological damage ... as a result of domestic violence".

81. The involvement of victims in the design of the reparation and rehabilitative measures is a crucial aspect of transformative remedies. The Special Rapporteur was informed that women living in various shelters are neither consulted nor included in the

[69] Debasish Kumar Kundu *et al.*, "Understanding alternative dispute resolution for the rural women in Bangladesh: some illustrations from BRAC HRLS Programme", Working Paper No. 13 (Dhaka, BRAC, 2010). Available from http://research.brac.net/workingpapers/red_wp13_new.pdf.

[70] Bangladesh Legal Aid Trust, *Draft Report of the National Conference on the Collection of Medical Evidence in Rape Cases: Practices, Procedures and Policies, 2 February 2013.*

[71] http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/bangladesh/IOM-Bangladesh-Newsletter-March-2012.pdf; http://www.lawjusticediv.gov.bd/static/projects.php.

[72] A/HRC/14/22, p. 1.

decisions concerning the types of recreational or income-generating activities provided to them.

82. During her visit, the Special Rapporteur noted the extent to which members of civil society play a role in ensuring access to justice and to effective remedies for victims of violence against women. She commends these efforts, but stresses that the Government, as the ultimate duty-bearer, retains responsibility for the fulfilment of due diligence obligations.

VI. Conclusions and recommendations

83. **The Government has undertaken a number of legal and institutional initiatives to meet its human rights obligations and address the situation of women and girls in the country. However, these have not been translated into concrete improvements in the lives of the majority of women who remain marginalized, discriminated against and at a high risk of being subjected to violence.**

84. **Many programmes and initiatives have been set up with the technical and financial support of development partners and donor agencies. Unfortunately, such programmes have not reached the majority of the population who live outside the capital; and women's access to justice and protection is still impeded by generalized impunity, limited access to services and shelters, lack of or insufficient legal representation and limited awareness of their rights. Other factors include economic dependency and societal reluctance to recognize numerous forms of violence against women as human rights violations.**

85. **It is essential that holistic solutions address both the individual empowerment of women and the social, economic and cultural barriers that are a reality in their lives.**

86. **The Special Rapporteur would like to address the following recommendations to the Government of Bangladesh:**

(a) Law and policy reform

(i) Ratify all outstanding international human rights instruments;

(ii) Expedite efforts towards the withdrawal of its reservations to articles 2 and 16.1(c) of the Convention on the Elimination of All Forms of Discrimination against Women;

(iii) Ratify International Labour Organization Convention No. 169 on Indigenous and Tribal Peoples and the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol;

(iv) Amend the Constitution explicitly to extend the application of the guarantees of equal rights between women and men to the private sphere in accordance with articles 1 and 2 of the Convention on the Elimination of All Forms of Discrimination against Women;

(v) Amend relevant personal status laws to eliminate discriminatory provisions regarding marriage, divorce, inheritance, distribution of property and child custody; and also consider the adoption of a uniform family code;

(vi) Consider the retrospective application of the Citizenship Amendment Act 2009, so that it applies to children born before 31 December 2008;

(vii) Review and evaluate criminal and civil laws to ensure effectiveness in eliminating violence against women, and remove provisions that allow for or condone violence against women;

(viii) Take necessary steps for the full implementation of the National Women's Development Policy 2011 and empower the Ministry of Women and Children's Affairs and departments at the local level with sufficient financial resources and technical expertise to carry out their mandate;

(ix) Strengthen the independence of the National Human Rights Commission in accordance with the Paris Principles and ensure that the nomination and selection process is fair and transparent;

(x) Establish an independent National Women's Commission mandated to promote and protect the rights of women. This Commission should be equipped with sufficient human, technical and financial resources to fulfil its mandate;

(xi) Enact legislation on sexual harassment on the basis of the directives of the Supreme Court of Bangladesh;

(xii) Strengthen the implementation of relevant legislation applicable to violence against women, and ensure that appropriate sanctions are imposed on perpetrators and State agents who fail to protect and prevent;

(xiii) Strengthen cross-border cooperation with neighbouring countries and fully implement the provisions of relevant SAARC conventions;

(xiv) Take urgent legislative measures to prohibit early and forced marriages and other practices harmful to the well-being of women and girl children;

(xv) Ensure that persons with disabilities have access to disability-friendly services and opportunities;

(xvi) Establish and/or strengthen existing monitoring mechanisms to ensure that female workers are protected from all forms of exploitation, particularly those working in the informal sectors. Hold businesses accountable for practices that negatively impact the health, well-being and security of workers;

(xvii) Create a centralized digitalized database on migrant workers to ensure the registration of all labour migrants and ensure their access to basic rights, including healthcare and contractual rights for seasonal jobs;

(xviii) Ensure that all police stations and tribunals are staffed with professionals who have received training on women's human rights in general and violence against women in particular;

(xix) Eliminate the practice of safe custody in prisons and other institutions and establish programmes to guarantee long-term rehabilitation and housing for victims of violence who do not have the support of their families;

(xx) Take effective measures to ensure that services provided to victims of violence, including those living in refugee camps, are in compliance with international standards;

(b) Accountability: take effective measures to ensure access to justice and effective remedies for all women and girl victims of violence, in particular:

(i) Ensure that all cases of violence against women are dealt with by formal judicial mechanisms so that victims can access effective remedies. Empower relevant law enforcement agencies to respond promptly to incidents of violence against women;

(ii) Take effective measures to ensure that the right of the victim to speak to female officers is respected;

(iii) Take effective measures to ensure the fast and efficient management of cases;

(iv) Ensure that all incidents of violence against women are effectively investigated by the police and that the perpetrators are sanctioned in proportion to the severity of their crime;

(v) Develop mechanisms to ensure a holistic, coordinated and sustained response to violence against women in order to apprehend, prosecute and convict offenders, contribute to the health and safety of the victim, and prevent revictimization;[73]

(vi) Ensure that protection measures are put in place to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process and ensure that witness and victim protection programmes are established;[74]

(vii) Ensure that procedures and complaint mechanisms are accessible to women who are victims of violence and their family members and other witnesses, without fear of reprisals;

(viii) Allocate adequate human, technical and financial resources to ensure that police officers, prosecutors and criminal justice officials can fulfil their mandate and ensure fair and equitable distribution of resources across the country;

(c) Societal transformation, including awareness-raising, addressing gender stereotypes and women's empowerment:

(i) Design and launch targeted awareness-raising campaigns to educate and change the mindsets and attitudes through all available means including schools, the media, community and religious leaders;

(ii) Train and sensitize relevant actors on issues related to women's rights in order to contribute to changing the predominant social and cultural beliefs and attitudes that are harmful to women;

(d) Statistics and data collection:

(i) Establish a standardized system for data collection and analysis, disaggregated by sex, race, age, ethnicity and other relevant characteristics, in order to understand the magnitude, trends and patterns of violence against women;

(ii) In cooperation with civil society organizations and relevant stakeholders, develop monitoring and evaluation tools to assess progress made in eradicating violence against women, as well as to integrate such tools in the country's periodic demographic and health surveys;

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[73] See A/RES/65/228.

[74] *Ibid.*

(iii) Conduct studies to assess the scope of violence against women in cooperation with relevant research institutions, civil society organizations and United Nations agencies.